

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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STATE OF ARIZONA, *Respondent*,

*v.*

WILLIAM KENNETH QUALLS, *Petitioner*.

No. 1 CA-CR 16-0198 PRPC  
FILED 9-19-2017

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Petition for Review from the Superior Court in Maricopa County  
No. CR2003-007036-001  
The Honorable Jo Lynn Gentry, Judge

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Maricopa County Attorney's Office, Phoenix  
By Diane Meloche  
*Counsel for Respondent*

William Kenneth Qualls, Florence  
*Petitioner*

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**MEMORANDUM DECISION**

Judge Kenton D. Jones delivered the decision of the Court, in which Presiding Judge Margaret H. Downie and Chief Judge Samuel A. Thumma joined.

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**JONES**, Judge:

¶1 William Qualls petitions this Court for review from the dismissal of his petition for post-conviction relief filed in February 2016. We have considered the petition for review and, for the reasons stated, grant review and deny relief.

¶2 In 2003, a jury convicted Qualls of six counts of sexual conduct with a minor, one count of kidnapping, two counts of molestation of a child, and one count of attempted sexual conduct with a minor, all arising out of events occurring between 1979 and 1989. Three of these offenses were dangerous crimes against children. The trial court imposed consecutive presumptive prison sentences totaling ninety-six years. This Court affirmed the convictions and sentences on direct appeal. *See State v. Qualls*, 1 CA-CR 03-0959 (Ariz. App. Dec. 21, 2004) (mem. decision).

¶3 Over the next eleven years, Qualls filed numerous unsuccessful notices and other pleadings that the superior court considered as petitions for post-conviction relief. *See infra* n.1. Qualls' petitions for review, special action, and writs of habeas corpus to this Court also proved unsuccessful.

¶4 In February 2016, Qualls filed a "motion for judicial review of trial courts fundamental error and due process violation." The superior court treated the motion as a petition for post-conviction relief<sup>1</sup> and

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<sup>1</sup> Qualls argues the superior court erred in disposing of his motion "using Rule 32 preclusions." However, Rule 32.3 authorizes the court to treat a pleading "raising any claim attacking the validity of [a] conviction or sentence" as a petition for post-conviction relief. And, we are not bound by the titles attached to documents by unsophisticated litigants. *See Ariz. R. Crim. P. 32.6(c)* (directing the court to "disregard[] defects of form" in its consideration of petitions for post-conviction relief); *see also State v. Davis*,

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summarily dismissed it, noting the petition was Qualls' sixth attempt to raise essentially the same claims. This timely petition for review followed.

¶5 “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, 393, ¶ 4 (App. 2007) (citing *State v. Schrock*, 149 Ariz. 433, 441 (1986)). We find no abuse of discretion here. Indeed, Qualls does not dispute the superior court’s conclusion that his claims are untimely and successive; instead, his petition for review merely reiterates the substantive arguments contained in his motion regarding, among other things, purported defects in the trial court’s subject matter jurisdiction, assistance of counsel, and due process. In the absence of any developed argument by Qualls alleging the court erred in rejecting his claims as untimely and successive, we are compelled to deny relief. *See State v. Stefanovich*, 232 Ariz. 154, 158, ¶ 16 (App. 2013) (concluding a defendant waives his claim on review where he fails to provide relevant authority or meaningfully develop the argument) (citations omitted).

¶6 Moreover, the superior court is required to summarily dismiss a Rule 32 proceeding if the claims raised therein are precluded. Ariz. R. Crim. P. 32.2(a), 32.6(c). A claim is precluded when it “has been waived at trial, on appeal, or in any previous collateral proceeding.” Ariz. R. Crim. P. 32.2(a)(3). Claims for post-conviction relief raised for the first time in an untimely or successive petition are precluded unless they fall within Rule 32.1(d), (e), (f), (g), or (h) and the petitioner establishes “meritorious reasons . . . substantiating the claim and indicating why the claim was not stated in the previous petition or in a timely manner.” Ariz. R. Crim. P. 32.2(b). Qualls’ claims do not fall within any of those exceptions, and therefore were properly subject to preclusion and summary dismissal.

¶7 Finally, to the extent Qualls intended to invoke the newly discovered evidence or actual innocence exceptions contained within Rules 32.1(e) and (h), his oblique and otherwise unquantified references to “evidence” substantiating his claim of “innocence of offenses charged” are insufficient to establish a colorable claim. Qualls did not describe the

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148 Ariz. 62, 64-65 (App. 1985) (directing courts to “look to the substance of the petitions and motions and not merely to their form” because “this court may grant the appropriate relief even though the writ applied for or the motion made is not aptly titled”) (citing *Brown v. State*, 117 Ariz. 476, 477 (1978)). Given the nature of Qualls’ requested relief – namely, the opportunity to present evidence establishing ineffective assistance of counsel and his actual innocence – we find no error.

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evidence or explain how it would preclude a reasonable fact-finder from convicting him of the underlying offenses. Furthermore, a defendant's self-serving assertions alone do not establish a colorable claim under Rule 32. See *State v. Wilson*, 179 Ariz. 17, 20 (App. 1993).

¶8 Qualls has failed to establish any abuse of the superior court's discretion through its denial of his petition. Accordingly, we grant review but deny relief.



AMY M. WOOD • Clerk of the Court  
FILED: AA